



Senate

General Assembly

File No. 78

February Session, 2008

Substitute Senate Bill No. 377

Senate, March 20, 2008

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MUNICIPAL AUDITS AND FINANCIAL PRACTICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 7-344 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 Not less than two weeks before the annual town meeting, the board
4 shall hold a public hearing, at which itemized estimates of the
5 expenditures of the town for the ensuing fiscal year shall be presented
6 and at which all persons shall be heard in regard to any appropriation
7 which they are desirous that the board should recommend or reject.
8 The board shall, after such public hearing, hold a public meeting at
9 which it shall consider the estimates so presented and any other
10 matters brought to its attention and shall thereupon prepare and cause
11 to be published in a newspaper in such town, if any, otherwise in a
12 newspaper having a substantial circulation in such town, a report in a
13 form prescribed by the Secretary of the Office of Policy and

14 Management containing: (1) An itemized statement of all actual
15 [receipts] revenues from all sources of such town during its last fiscal
16 year; (2) an itemized statement by classification of all actual
17 expenditures during the same year; (3) an itemized estimate of
18 anticipated revenues during the ensuing fiscal year from each source
19 other than from local property taxes and an estimate of the amount
20 which should be raised by local property taxation for such ensuing
21 fiscal year; (4) an itemized estimate of expenditures of such town for
22 such ensuing fiscal year; and (5) the amount of [revenue surplus or
23 deficit] (A) cumulative deficit, as defined in section 7-391 of the 2008
24 supplement to the general statutes, as amended by this act, in the
25 general fund of the town, or (B) any balance in such fund at the
26 beginning of the fiscal year for which estimates are being prepared;
27 provided any town which, according to the most recent federal census,
28 has a population of less than five thousand may, by ordinance, waive
29 such publication requirement, in which case the board shall provide
30 for the printing or mimeographing of copies of such report in a
31 number equal to ten per cent of the population of such town according
32 to such federal census, which copies shall be available for distribution
33 five days before the annual budget meeting of such town. The board
34 shall submit such estimate with its recommendations to the annual
35 town meeting next ensuing, and such meeting shall take action upon
36 such estimate and recommendations, and make such specific
37 appropriations as appear advisable, but no appropriation shall be
38 made exceeding in amount that for the same purpose recommended
39 by the board and no appropriation shall be made for any purpose not
40 recommended by the board. Such estimate and recommendations may
41 include, if submitted to a vote by voting machine, questions to indicate
42 whether the budget is too high or too low. The vote on such questions
43 shall be for advisory purposes only, and not binding upon the board.
44 Immediately after the board of assessment appeals has finished its
45 duties and the grand list has been completed, the board of finance shall
46 meet and, with due provision for estimated uncollectible taxes,
47 abatements and corrections, shall lay such tax on such list as shall be
48 sufficient, in addition to the other estimated yearly income of such

49 town and in addition to [such revenue] the surplus balance available in
50 the general fund of such towns, if any, as may be appropriated, not
51 only to pay the expenses of the town for such current year, but also to
52 absorb [the revenue] any cumulative deficit, as defined in section 7-391
53 of the 2008 supplement to the general statutes, as amended by this act,
54 in the general fund of such town, [if any, at the beginning of such
55 current year] pursuant to the provisions of section 8 of this act. The
56 board shall prescribe the method by which and the place where all
57 records and books of accounts of the town, or of any department or
58 subdivision thereof, shall be kept. The provisions of this section shall
59 not be construed as preventing a town from making further
60 appropriations upon the recommendation of its board of finance at a
61 special town meeting held after the annual town meeting and prior to
62 the laying of the tax for the current year, and any appropriations made
63 at such special town meeting shall be included in the amount to be
64 raised by the tax laid by the board of finance under the provisions of
65 this section.

66 Sec. 2. Section 7-390 of the general statutes is repealed and the
67 following is substituted in lieu thereof (*Effective from passage*):

68 Each municipality adopting the provisions of this chapter shall
69 publish, as provided in section 7-344, as amended by this act, a budget
70 statement which shall show, in addition to the items set forth in said
71 section 7-344: [.] (1) [an] An estimate of the [receipts] revenues and
72 expenditures of the year during which the budget is being prepared,
73 (2) a statement of the actual receipts and expenditures of the year prior
74 to the year in which the budget is being prepared, and (3) an estimate
75 of the [receipts] revenues and expenditures for the ensuing year. Each
76 such municipality shall levy a property tax that, when added to the
77 estimated yearly revenue of such municipality and to the surplus
78 balance available in the general fund of such municipality, if any, as
79 may be appropriated, shall be sufficient to pay the expenses for the
80 fiscal year in which the tax is being levied, and absorb any cumulative
81 deficit, as defined in section 7-391 of the 2008 supplement to the
82 general statutes, as amended by this act, which exists at the beginning

83 of the fiscal year in which the budget is being prepared in accordance
84 with the provisions of section 8 of this act.

85 Sec. 3. Section 7-391 of the 2008 supplement to the general statutes is
86 repealed and the following is substituted in lieu thereof (*Effective from*
87 *passage*):

88 When used in this chapter, unless the context otherwise requires,
89 the following terms shall have the meanings herein specified:

90 (1) "Secretary" means the Secretary of the Office of Policy and
91 Management; "municipality" includes each town, consolidated town
92 and city, consolidated town and borough, city and borough;

93 ["audited agency"] (2) "Audited agency" includes each district, as
94 defined in section 7-324, or other municipal utility, the Metropolitan
95 District of Hartford County, each regional planning agency, any other
96 political subdivision of similar character which is created and any
97 other agency created or designated by a municipality to act for such
98 municipality whose annual receipts from all sources exceed one
99 million dollars;

100 ["reporting agency"] (3) "Reporting agency" includes each district, as
101 defined in section 7-324, or other municipal utility, each regional
102 planning agency, any other political subdivision of similar character
103 which is created and any other agency created or designated by a
104 municipality to act for such municipality whose annual receipts from
105 all sources do not exceed one million dollars;

106 ["appointing authority"] (4) "Appointing authority" means the
107 legislative body of a municipality or the board, committee or other
108 governing body of such audited agency, except in any town where the
109 authority to adopt a budget rests with a town meeting or a
110 representative town meeting "appointing authority" means the board
111 of finance or other board, committee or body charged with preparing
112 the budget, or in a town which has no board of finance or other such
113 board, committee or body, means the board of selectmen or the town

114 council;

115 ["audit report"] (5) "Audit report" means the report of the
116 independent auditor and the annual financial statements of the
117 municipality or audited agency;

118 ["independent auditor"] (6) "Independent auditor" means a public
119 accountant who is licensed to practice in the state of Connecticut and
120 who meets the independence standards included in generally accepted
121 government auditing standards;

122 ["public accountant"] (7) "Public accountant" means an individual
123 who meets standards included in generally accepted government
124 auditing standards for personnel performing government audits and
125 the licensing requirements of the State Board of Accountancy;

126 ["receipts"] (8) "Receipts" means amounts accrued or received by a
127 municipality, audited agency or reporting agency and reportable as
128 revenues in accordance with generally accepted accounting principles;

129 ["municipal utility"] (9) "Municipal utility" means every Connecticut
130 municipality or department or agency thereof, or Connecticut district,
131 manufacturing, selling or distributing gas or electricity to be used for
132 light, heat or power or water;

133 (10) "Cumulative deficit" means the amount by which liabilities
134 exceed assets of a fund, as reported on the balance sheet prepared in
135 accordance with generally accepted accounting principles;

136 (11) "Operating deficit" means the amount by which expenditures
137 and other financing uses exceed revenues and other financing sources
138 of a fund for a fiscal year of an entity, as reported on the operating
139 statement prepared in accordance with generally accepted accounting
140 principles;

141 (12) "General fund" means the chief operating fund of a
142 municipality, audited agency or regional school district, as defined

143 under generally accepted accounting principles; and

144 (13) "Reportable noncompliance" means any instance of
145 noncompliance required to be reported under generally accepted
146 government auditing standards.

147 Sec. 4. Section 7-393 of the general statutes is repealed and the
148 following is substituted in lieu thereof (*Effective from passage*):

149 (a) Upon the completion of an audit, the independent auditor shall
150 file certified copies of the audit report with (1) the appointing
151 authority, (2) in the case of a town, city or borough, with the clerk of
152 such town, city or borough, (3) in the case of a regional school district,
153 with the clerks of the towns, cities or boroughs in which such regional
154 school district is located and with the board of education, (4) in the
155 case of an audited agency, with the clerks of the towns, cities or
156 boroughs in which such audited agency is located, and (5) in each case,
157 with the Secretary of the Office of Policy and Management. Such
158 copies shall be filed [within] not later than six months [from] after the
159 end of the fiscal year of the municipality, regional school district or
160 audited agency, [but the secretary may grant an extension of not more
161 than thirty days, provided the auditor making the audit and the chief
162 executive officer of the municipality, regional school district or audited
163 agency shall jointly submit a request in writing to the secretary stating
164 the reasons for such extension at least thirty days prior to the end of
165 such six-month period] unless an extension is granted pursuant to this
166 section. The secretary may grant an initial extension of one month and
167 two additional extensions of not more than one month each upon
168 determining there is reasonable cause for such extension. The auditor
169 and the chief executive officer of the municipality, regional school
170 district or audited agency shall jointly submit a request in writing to
171 the secretary stating the reasons for an extension. The deadline for
172 filing a request for an initial extension shall be at least thirty days prior
173 to the end of such six-month period. The deadline for filing a request
174 for a subsequent extension under this section shall be at least fifteen
175 days prior to the extended date on which such certified copies of the

176 audit report are due. If the reason for the extension relates to
177 deficiencies in the accounting system of the municipality, regional
178 school district or audited agency the request must be accompanied by
179 a corrective action plan. [The secretary may, after a hearing with the
180 auditor and officials of the municipality, regional school district or
181 audited agency, grant an additional extension if conditions warrant.
182 Said] Any extension beyond the total period allowed under this section
183 shall be granted only upon the approval of the Municipal Finance
184 Advisory Commission, established under section 7-394b, as amended
185 by this act. The independent auditor shall preserve all [of his] working
186 papers employed in the preparation of any such audit until the
187 expiration of [three] five years from the date of filing a certified copy of
188 the audit with the secretary and such working papers shall be
189 available, upon written request and upon reasonable notice from the
190 secretary, during such time for inspection by the secretary or his
191 authorized representative, at the office or place of business of the
192 auditor, during usual business hours. [Any] If the secretary determines
193 that the work papers related to an audit are substandard, the secretary
194 shall transmit a report regarding such determination to the Municipal
195 Finance Advisory Commission. A municipality, regional school district
196 [,] or audited agency or the auditor of a municipality, regional school
197 district or audited agency who fails to have the audit report filed [on
198 its behalf within six months from the end of the fiscal year or within
199 the time granted by the secretary] within the time period allowed
200 under this section or section 7-394b, as amended by this act, shall be
201 assessed a civil penalty of not less than one thousand dollars but not
202 more than ten thousand dollars. The secretary may waive such penalty
203 if, in [his] the opinion of the secretary, there appears to be reasonable
204 cause for [not having completed or provided] the failure to complete
205 or provide the required audit report, provided an official of the
206 municipality, regional school district or audited agency or the auditor
207 submits a written request for such waiver.

208 (b) Each certified copy of the audit report, filed in accordance with
209 subsection (a) of this section, shall include any findings by the auditor
210 of reportable noncompliance with applicable laws, regulations and

211 grant or contract provisions, or any significant deficiencies or material
212 weaknesses with respect to the internal controls of the municipality,
213 audited agency or regional school district. Not later than thirty days
214 following the receipt of such notification, the chief executive officer of
215 the municipality or audited agency or superintendent of the regional
216 school district shall submit to the secretary a plan for corrective action
217 to eliminate such reportable noncompliance, significant deficiency or
218 material weakness. If any significant deficiency, material weakness or
219 reportable noncompliance in the same or substantially the same form
220 is cited in an audit report for the most current fiscal year and in each
221 audit report for the preceding two fiscal years, the appointing
222 authority shall approve said corrective action plan prior to its
223 submittal to the secretary. The secretary shall send a response to the
224 corrective action plan, if any, to the chief executive officer of the
225 municipality, audited agency or regional school district and to the
226 appointing authority, if such authority approved the plan.

227 Sec. 5. Subsection (a) of section 7-394a of the general statutes is
228 repealed and the following is substituted in lieu thereof (*Effective from*
229 *passage*):

230 (a) The audit report prepared by an independent auditor, as defined
231 in section 7-391 of the 2008 supplement to the general statutes, as
232 amended by this act, retained to render an audit for a municipality,
233 regional school district or audited agency, or by any fiscal officer of
234 such municipality, regional school district or audited agency shall be
235 prepared in accordance with generally accepted accounting principles,
236 generally accepted auditing standards, generally accepted government
237 auditing standards and the provisions of sections 4-230 to 4-236,
238 inclusive.

239 Sec. 6. Section 7-394b of the general statutes is repealed and the
240 following is substituted in lieu thereof (*Effective from passage*):

241 (a) There is established a Municipal Finance Advisory Commission
242 which shall (1) review and submit any recommendations as may be
243 deemed appropriate with respect to any regulations concerning the

244 provisions of section 7-394a, as amended by this act, submitted by the
245 Secretary of the Office of Policy and Management for purposes of such
246 review; [and] (2) promulgate, as it deems appropriate and in
247 consultation with appropriate professional and municipal associations,
248 best practice guidelines to promote sound municipal financial
249 management practices; (3) approve a request for an extension for the
250 completion and submission of an audit, beyond the total period of
251 extension the Secretary of the Office of Policy and Management may
252 approve under section 7-393, as amended by this act, if the commission
253 finds that conditions warrant such additional extension. The auditor
254 jointly with the chief executive officer of the municipality or audited
255 agency or the superintendent of the regional school district, shall make
256 such request, in writing, at least thirty days prior to the end of the total
257 period of extension the secretary approves pursuant to said section 7-
258 393. Before approving an extension under this subsection, the
259 commission may require the auditor and officials of the municipality,
260 regional school district or audited agency to appear before the
261 commission or before a member of the commission. The municipality,
262 audited agency or regional school district and its auditor shall provide
263 such additional documentation as the commission or a member of the
264 commission may reasonably require in order to analyze the request
265 and ensure that the audit will be completed within the additional time
266 that is requested; and (4) work with any municipality, regional school
267 district or audited agency referred to it pursuant to the provisions of
268 section 7-395, as amended by this act, or section 8 of this act, to
269 improve the fiscal condition of such [municipality] entity. Upon receipt
270 of the secretary's report pursuant to said section 7-395, the commission
271 shall, in determining the level of financial distress of such
272 [municipality] entity, review audits, budgets, accounting and fiscal
273 management practices and any other information relevant to the
274 [municipality's] fiscal condition of the entity. The commission may
275 require the chief executive officer of the municipality or audited
276 agency or the superintendent of a regional school to (A) provide such
277 information and appear before the commission to discuss the financial
278 condition of the municipality, audited agency or regional school

279 district and the implementation of remedial measures to improve its
280 financial condition; and (B) submit a written report to the commission
281 on implementation of the recommendations of the commission and
282 other remedial measures. If a chief executive officer of a municipality
283 or audited agency or the superintendent of a regional school fails to
284 provide the information requested or fails to submit the report [within]
285 not later than thirty days [of] after the date of the request, the
286 commission may assess a civil penalty of not less than one thousand
287 but not more than ten thousand dollars on the municipality, audited
288 agency or regional school district. If a chief executive officer of a
289 municipality or audited agency or the superintendent of a regional
290 school upon whom a penalty has been imposed submits a request, the
291 secretary may waive all or a portion of such penalty if [he] the
292 secretary determines that a reasonable cause exists for [not having
293 provided] the failure to provide the requested information or report.
294 The secretary may, as a condition of such waiver, require compliance
295 by a date set by the secretary.

296 (b) Said commission shall consist of eight members appointed by
297 the Governor as follows: (1) Four members who are fiscal or executive
298 officers of municipalities, with one such member from a municipality
299 in each of the following categories of population at the time of such
300 appointment: (A) A municipality with a population under ten
301 thousand, (B) a municipality with a population of at least ten thousand
302 but under twenty-five thousand, (C) a municipality with a population
303 of at least twenty-five thousand but under seventy-five thousand and
304 (D) a municipality with a population of seventy-five thousand or over;
305 (2) three members who are not officers of municipalities but whose
306 experience and knowledge, in the discretion of the Governor, would be
307 valuable for the purposes of said commission, and (3) a representative
308 from the Office of Policy and Management. Members shall be
309 appointed for four-year terms coterminous with the term of the
310 Governor or until a successor is appointed and qualified, whichever is
311 longer, provided the term of any such member shall be contingent
312 upon holding the office, when applicable, which qualified such
313 member for appointment. Vacancies other than by expiration of terms

314 shall be filled by appointment by the Governor for the unexpired term.
315 All members of said commission shall serve without compensation,
316 except for reimbursement for their necessary expenses incurred in the
317 performance of their duties as members.

318 (c) Repealed by P.A. 83-321, S. 2, 3.

319 (d) Notwithstanding the provisions of section 7-396, as amended by
320 this act, the commission may designate an independent auditor to
321 audit the accounts of a municipality, regional school district or audited
322 agency for which the commission receives a referral, pursuant to
323 section 7-395, as amended by this act, or pursuant to section 8 of this
324 act, provided the commission determines that such action is in the best
325 interests of such entity or is necessary for the commission to more
326 accurately determine the level of fiscal distress of such entity. The
327 municipality, regional school district or audited agency shall be
328 responsible for paying the costs associated with an audit performed by
329 the independent auditor the commission designates. If any such entity
330 fails to appropriate funding sufficient to meet such costs, an amount
331 sufficient to meet such costs shall be deemed appropriated,
332 notwithstanding the provisions of any other general statute or of any
333 special act, charter, special act charter, home rule ordinance, local
334 ordinance or local law.

335 Sec. 7. Section 7-395 of the general statutes is repealed and the
336 following is substituted in lieu thereof (*Effective from passage*):

337 The secretary shall review each audit report filed with said secretary
338 as provided in section 7-393, as amended by this act, except said
339 secretary shall review the audit reports on each audited agency
340 biennially and may review the audit reports on any municipality or
341 regional school district biennially, provided such secretary shall, in any
342 year in which [he] the secretary does not review the report of any such
343 municipality or regional school district, review the comments and
344 recommendations of the independent auditor who made such audit. If,
345 upon such review of the audit report, evidence of fraud or
346 embezzlement is found, [he] the secretary shall report such

347 information to the state's attorney for the judicial district in which such
348 municipality, regional school district or audited agency is located. If, in
349 the review of such audit report said secretary finds that such audit has
350 not been prepared in compliance with the provisions of subsection (a)
351 of section 7-394a, as amended by this act, or said secretary finds
352 evidence of any unsound or irregular financial practice in relation to
353 commonly accepted standards in municipal finance, said secretary
354 shall prepare a report concerning such finding, including necessary
355 details for proper evaluation of such finding and recommendations for
356 corrective action and shall refer such report to the Municipal Finance
357 Advisory Commission established under section 7-394b, as amended
358 by this act. A copy of such report shall be filed with: (1) The chief
359 executive officer of such municipality or audited agency or the
360 superintendent of such school district and, in the case of a town, city or
361 borough, with the clerk of such town, city or borough; and (2) the
362 Auditors of Public Accounts.

363 Sec. 8. (NEW) (*Effective from passage*) (a) Upon determining the
364 existence of a cumulative deficit, as defined in section 7-391 of the 2008
365 supplement to the general statutes, as amended by this act, in the
366 general fund of a municipality for the most recently completed fiscal
367 year or upon determining that the existence of an operating deficit in
368 the current fiscal year will result in such a cumulative deficit based
369 upon documented information, the chief executive officer of the
370 municipality shall make reasonable efforts to mitigate or avoid such
371 deficit. Not later than five business days after a determination under
372 this section, the chief executive officer of the municipality shall notify
373 the Secretary of the Office of Policy and Management, in writing, of
374 such determination. Any such cumulative deficit, determined to exist
375 based on available or audited data for the most recently completed
376 fiscal year or projected in the current fiscal year based upon
377 documented information, shall be absorbed in the budget adopted for
378 the ensuing fiscal year through an increase in revenues, a decrease in
379 expenditures, the issuance of deficit obligations, in accordance with
380 section 7-568 of the general statutes, or a combination thereof, in the
381 budget adopted by such municipality. The amount needed in the

382 budget for said fiscal year, to absorb such cumulative deficit, may
383 reflect documented efforts to mitigate the cumulative deficit taken
384 during the fiscal year in which the budget is being prepared. Not later
385 than three business days following the approval date of the budget of
386 the municipality for such ensuing fiscal year, the chief executive officer
387 thereof shall submit a written notice to the secretary, which shall
388 provide detailed information as to how the adopted budget, together
389 with any other actions the municipality is undertaking, will fully
390 absorb the cumulative deficit in the municipality's general fund. If the
391 secretary determines on the basis of such information that the adopted
392 budget is insufficient to absorb such cumulative deficit, the secretary
393 shall refer the municipality to the Municipal Finance Advisory
394 Commission established under section 7-394b of the general statutes,
395 as amended by this act. Any referral the secretary makes under this
396 section shall include a report of the secretary's findings, in the manner
397 provided under section 7-395 of the general statutes, as amended by
398 this act.

399 (b) Any municipality the secretary refers to the commission
400 pursuant to this section shall provide the commission, for its review
401 and approval, a plan to eliminate the cumulative deficit in its general
402 fund and a three-year financial plan. The submission of such plans
403 shall be in the form and manner the commission may require. If the
404 municipality fails to submit a plan to eliminate such cumulative deficit
405 and a three-year financial plan that is acceptable to the commission,
406 the secretary shall, in consultation with the commission, develop such
407 plans. Any municipality for which the secretary develops such plans
408 shall include only those amounts of projected state revenue and
409 property tax revenue that the commission approves in preparing and
410 adopting an annual budget for each of the three years the financial
411 plan encompasses.

412 (c) Within available appropriations, the secretary may assign a
413 member of the secretary's staff to provide technical assistance to any
414 municipality that the secretary refers to the commission in accordance
415 with this section or section 7-395 of the general statutes, as amended by

416 this act. Such technical assistance shall be for the purpose of
417 developing and implementing plans to improve the budgetary and
418 financial practices of the municipality. With the approval of the
419 municipality, the secretary may make a member of the secretary's staff
420 or a consultant, or both, available to such municipality to provide any
421 additional assistance the secretary deems necessary. The cost and
422 related expenses of such staff or consultant shall be the responsibility
423 of the municipality. If any such municipality fails to appropriate
424 funding sufficient to meet such costs and expenses, there shall be
425 deemed appropriated an amount sufficient to meet such costs and
426 expenses, notwithstanding the provisions of any other general statute
427 or of any special act, charter, special act charter, home rule ordinance,
428 local ordinance or local law.

429 Sec. 9. Section 7-396 of the general statutes is repealed and the
430 following is substituted in lieu thereof (*Effective from passage*):

431 (a) The regional board of education and appointing authority of any
432 municipality or audited agency shall file with the Secretary of the
433 Office of Policy and Management the name of the independent
434 auditor, designated to audit the financial statements of the regional
435 school district, municipality, or audited agency, at least thirty days
436 before the end of the fiscal period of such regional school district,
437 municipality, or audited agency for which such audit is required. If
438 any such appointing authority fails to notify the secretary of such
439 designation before such thirty-day period, said secretary may appoint
440 any independent auditor to audit the accounts of such regional school
441 district, municipality or audited agency, and the cost and expense of
442 such audit shall be borne by such regional school district, municipality
443 or audited agency.

444 (b) Not later than thirty days after being designated under this
445 section to audit the financial statements of a municipality, regional
446 school district or audited agency, an independent auditor shall provide
447 the secretary with a copy of the most recent peer review of such
448 auditor concerning auditing practices and procedures, in accordance

449 with governmental auditing standards of such auditor, along with a
450 copy of the letter of comments relating to such review. An
451 independent auditor designated to audit the financial statements of
452 more than one municipality, audited agency or regional school district
453 for the same period shall not be required to submit to the secretary a
454 duplicate copy of the peer review and letter of comments that have
455 already been submitted under this section.

456 Sec. 10. Section 7-577 of the general statutes is repealed and the
457 following is substituted in lieu thereof (*Effective from passage*):

458 (a) The Attorney General may apply for a writ of mandamus on
459 behalf of the commission, acting through its chairperson, requiring any
460 official, employee or agent of the municipality to carry out and give
461 effect to any determination of the commission authorized by
462 [subsection (a) of] section 7-394b, as amended by this act, and sections
463 7-560 to 7-579, inclusive, and any obligation by a municipality to repay
464 to the state any amounts the state pays into a special capital reserve
465 fund and compliance by a municipality with any agreements or
466 indenture pertaining to a special capital reserve fund or tax intercept
467 procedure or debt service payment fund related thereto. Each such
468 application shall be filed in superior court for the judicial district of
469 Hartford.

470 (b) The superior court for the judicial district of Hartford may, by
471 application of the secretary, the commission or the Attorney General,
472 enforce, by appropriate decree or process, any provisions of
473 [subsection (a) of] section 7-394b, as amended by this act, and sections
474 7-560 to 7-579, inclusive, or any act or determination of the commission
475 rendered pursuant to subsection (a) of section 7-394b, as amended by
476 this act, and sections 7-560 to 7-579, inclusive.

477 Sec. 11. Section 12-122 of the general statutes is repealed and the
478 following is substituted in lieu thereof (*Effective from passage*):

479 The selectmen of each town [, in their annual report to be submitted]
480 shall submit a report at the annual town meeting [,] that shall include

481 an itemized estimate of the current expenses of the departments of the
 482 town for the ensuing fiscal year. [, which] Such estimate shall be
 483 altered or approved as the voters determine at such town meeting.
 484 Upon completion of the work of the board of assessment appeals and
 485 of the final assessment list for the first day of October preceding the
 486 date of the annual town meeting, the town shall levy a tax on such list,
 487 payable not later than forty days prior to the end of the fiscal year for
 488 which the tax [was] is levied. No town shall levy a tax which, in
 489 addition to the other estimated yearly income of the town and the
 490 surplus balance in the general fund of such town, if any, as may be
 491 appropriated, shall be insufficient to pay the estimated expenses of the
 492 town for the [current year. If the estimated income, including taxes,
 493 proves insufficient to pay the current expenses of the town, the
 494 selectmen, in their next annual estimate of current expenses, shall
 495 include a sum sufficient to pay the deficit in such expenses of the
 496 previous year] fiscal year for which such tax is levied and to absorb a
 497 cumulative deficit, as defined in section 7-390, as amended by this act,
 498 in the town's general fund, pursuant to the requirements of section 8 of
 499 this act. The provisions of this section shall [not] apply to towns,
 500 [which have boards or departments of finance] notwithstanding the
 501 provisions of any special act, local charter, ordinance or home rule
 502 ordinance.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	7-344
Sec. 2	<i>from passage</i>	7-390
Sec. 3	<i>from passage</i>	7-391
Sec. 4	<i>from passage</i>	7-393
Sec. 5	<i>from passage</i>	7-394a(a)
Sec. 6	<i>from passage</i>	7-394b
Sec. 7	<i>from passage</i>	7-395
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	7-396
Sec. 10	<i>from passage</i>	7-577
Sec. 11	<i>from passage</i>	12-122

PD Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
Various Municipalities	STATE MANDATE - See Below	See Below	See Below

Explanation

The bill requires municipalities that project a cumulative general fund deficit to notify the Office of Policy and Management (OPM) within five days. Additionally, the bill requires these municipalities to remedy the actual or projected deficit by increasing revenues, decreasing expenditures or by issuing deficit reduction bonds, which may result in increased taxes, decreased spending or increased bonded indebtedness. Additionally, the bill requires municipal executives to submit a plan to OPM if a municipal audit report contains findings of noncompliance with applicable laws and regulations and findings of weak internal controls.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 377*****AN ACT CONCERNING MUNICIPAL AUDITS AND FINANCIAL PRACTICES.*****SUMMARY:**

This bill establishes new requirements for mitigating municipal deficits. It requires municipalities to identify actual and potential general fund deficits and take specified steps to address them. These include setting tax rates that will generate enough funds to absorb deficits developed during previous fiscal years and mitigating deficits as they occur during a fiscal year.

The bill imposes new municipal auditing requirements. The law requires municipalities to hire an independent auditor to audit their financial statements. The bill requires the retained auditor to submit his or her most recent peer review to the Office of Policy and Management (OPM) secretary. The bill explicitly requires municipal audits to meet federally prescribed “generally accepted government auditing standards” and identify instances of reportable noncompliance.

By law, the auditors must submit their reports to the secretary within six months after completing them, but the law allows for extensions. The bill revamps the procedure for requesting an extension, and some of these changes affect the Municipal Finance Advisory Commission (MFAC). It allows the secretary to grant up to three one-month extensions but allows any further extensions only if MFAC approves them. It also expands MFAC’s capacity to review municipal financial practices. Lastly, the bill requires MFAC to develop auditing guidelines based on best practices and review the audits of more entities that must comply with the Municipal Auditing

Act.

EFFECTIVE DATE: Upon passage

DEFICITS

Types

The bill specifies the steps a municipality must take when it identifies or projects a cumulative deficit in its general fund (i.e., the fund that covers its operating expenses). These deficits result when operation costs exceed the municipality's revenues, including tax and fee revenues and federal and state aid (i.e., operating deficit). An operating deficit in the current fiscal year could become a cumulative deficit if it is not resolved and carried over into the next fiscal year.

Under the bill, cumulative and operating deficits are those reported on a municipality's balance sheet and operating statements, respectively that were prepared according to generally accepted accounting principles (§ 3).

Steps to be Taken after Uncovering a Cumulative Deficit (§ 8)

The bill requires a municipality to address any cumulative general fund deficit in its most recently completed fiscal year and an operating deficit that could result in a cumulative deficit in a subsequent fiscal year. In either case, the municipality's chief executive officer must take reasonable steps to reduce or avoid the deficit.

He or she must notify the OPM secretary in writing within five business days after the municipality identifies the deficit. The municipality must absorb the actual or projected deficit in the subsequent fiscal year by increasing revenues, decreasing expenditures, issuing deficit reduction bonds, or any combination of these measures. The amounts needed to absorb the deficit may reflect documented efforts the municipality took to reduce the cumulative deficit while it prepared the subsequent fiscal year's budget.

Three business days after the municipality approves the new fiscal year's budget, the chief executive officer must send a written notice to

the secretary detailing how the budget will fully absorb the cumulative general fund deficit. The notice may include any other steps the municipality is taking reduce the deficit. After reviewing the notice, the secretary must refer the municipality to MFAC if the budget does not sufficiently absorb the deficit. If he does so, he must delineate his findings.

Any municipality referred to MFAC must prepare and submit two plans for its review and approval. One plan must show how the municipality intends to eliminate the cumulative deficit; the other must be a three-year financial plan. The municipality must prepare these plans according MFAC's format.

If the MFAC does not accept the municipality's plans, the secretary must, in consultation with MFAC, prepare them. In this case, MFAC must approve the revenue projections the municipality will use to prepare its annual budget and three-year financial plan. The projections encompass state aid and property tax revenue.

Within available appropriations, the bill allows the secretary to assign a staff member to assist a referred municipality. This person must help develop and implement plans to improve the municipality's fiscal practices. The secretary may assign a staff member, a consultant, or both to provide additional assistance if he thinks it is necessary and the municipality accepts the assistance. If it does, the municipality must cover the cost. If it fails to do so, the bill deems the cost an appropriated municipal cost regardless of contrary state or local law.

The bill allows the secretary to extend this assistance to those municipalities he refers to MFAC for other fiscally related reasons. As discussed below, he may refer any municipality whose annual audit was improperly prepared or contained evidence of unsound or irregular financial practices (CGS § 7-396).

Setting Tax Rates to Absorb a Cumulative Deficit (§§ 1, 2, & 11)

The bill requires municipalities to absorb any cumulative deficits in their operating general fund when they prepare their budgets. They

must do by raising enough taxes, together with other income and any budget balances to absorb the deficit as well as estimated expenses. Current law requires them to raise enough taxes, together with other income, to pay these estimated expenses.

These requirements apply to all towns regardless of whether they govern themselves under a charter or the statutes (§§ 1 and 11). In both cases, though, they must operate according on a July 1 to June 30 fiscal year (§ 2). Towns that govern themselves under the statutes may require the board of selectmen to prepare the budget and propose the tax rate for the town meeting's consideration (§ 11). Or they may assign that task to a board of finance, which is also governed under the statutes (§ 1).

In these towns, the boards' budget documents must identify the cumulative deficit or balance in the general fund. By law, these documents must show the money the town received and spent for different purposes during the prior fiscal year, the amounts it expects to receive and spend during the next fiscal year, and the amount of any revenue surplus or deficit. The bill explicitly requires the boards to identify any cumulative deficit and anticipated fund balance (§ 1).

MUNICIPAL AUDITING REQUIREMENTS

Independent Auditor's Peer Review (§ 9)

By law, all municipalities, regional school districts and other regional bodies, and some special taxing districts must have their financial statements and accounts audited by an independent auditor at least once every year and submit the audit reports to various local officials and the OPM secretary (CGS § 7-392). These entities must also notify the secretary about the auditors they selected to conduct the audit.

The bill requires these auditors to submit certain documents to the secretary within 30 days after their selection. They must submit a copy of the most recent peer review of their auditing practices and procedures that were based on governmental auditing standards.

They must also submit letters of comment regarding these reviews. Auditors selected to audit more than one entity need submit only one copy of these documents to the secretary.

Reportable Noncompliance (§§ 4 & 5)

The bill requires the auditors to prepare their findings according to generally accepted government auditing standards. The law already requires them to prepare these findings according to generally accepted accounting principles and auditing standards (§ 5).

Based on generally accepted government auditing standards, auditors must identify:

1. instances of noncompliance with applicable laws, regulations, and grant or contract provisions and
2. significantly deficient or materially weak internal controls (§ 4).

Audit reports containing these findings must trigger certain actions. Within 30 days after receiving the audit report, the executive in charge of the audited entity must submit a plan to eliminate the findings to the OPM secretary. He or she must approve the plan before submitting it to the secretary if the findings are the same or substantially the same as those reported for the preceding two fiscal years. The secretary must respond to the executive officer and any authority that appointed this officer when he receives the approved plans (§ 4).

Extending Audit Submission Deadlines (§ 4)

By law, independent auditors must submit a copy of their audit reports to the OPM secretary within six months after the entity's fiscal year ends, but they may ask to extend this deadline. The bill changes the process and conditions for doing so. Under current law, the auditor and the entity's chief executive officer must ask for an extension in writing at least 30 days before the six-month period ends. The request must explain the need for the extension. If warranted, the secretary may grant one additional extension after holding a hearing

on the matter with the auditor and the chief executive. Current law does not specify the period for this extension.

The bill authorizes two additional extension periods. As under current law, the secretary may grant an initial 30-day extension if the auditor and the chief executive request one at least 30 days before the end of the six-month filing period. He may also grant two additional 30-day extensions if they request one within 15 days before end of an extension period. The bill allows further extensions, but only with the MFAC's approval (see below).

The bill retains the \$1,000 to \$10,000 civil penalty imposed on the auditor or the audited entity for failing to meet the any of the above deadlines. As under current law, the secretary may waive the penalty for reasonable cause if the auditor or an official of the audited entity request it in writing.

Recordkeeping (§ 4)

The bill extends, from three to five years, the period during which an auditor must keep all working papers. As under current law, the retention period begins when the auditor submits the audit report to the secretary. The secretary may review those papers anytime during that period. He must notify MFAC if he determines these papers are substandard.

MFAC (§§ 6 & 9)

The bill expands MFAC's duties. Under current law, MFAC reviews OPM regulations establishing municipal auditing standards. The bill requires MFAC to develop guidelines based on best practices that promote sound municipal financial management practices. MFAC must do this as it deems appropriate and in consultation with appropriate professional and municipal associations.

It must also act on requests for audit extensions after the three granted by the secretary expire. The bill specifies the process and requirements for requesting and approving these extensions. The auditor and the chief executive of the audited entity must request the

extension in writing at least 30 days before the end of the last one-month extension period the secretary grants. Before approving a request, the MFAC may require the auditor and the entity's officials to come before the commission or one of its members and provide any information it needs to act on the request.

The bill requires MFAC to assist more types of entities that need help meeting auditing standards or improving financial practices. Under current law, it may help only a municipality the secretary refers to it after reviewing its audit report. As noted above, he must do so if the audit did not meet commonly accepted standards or showed signs of unsound or irregular financial practices.

The bill extends the MFAC's duty to special taxing and regional school districts and regional planning agencies the secretary referred to the commission. In doing so, it requires these entities to comply with the existing reporting requirements and subjects them to the existing \$1,000 to \$10,000 civil penalty for noncompliance.

Lastly, the bill allows MFAC to select an independent auditor to audit the accounts of a referred entity. MFAC must first determine that this step is in the entity's best interest or is needed to accurately gauge its level of fiscal distress. The entity must pay for the audit. If it fails to do so, the bill deems the cost an appropriated amount overriding any contrary law or ordinance.

BACKGROUND

MFAC

MFAC is an eight-member commission that advises the OPM secretary about standards and practices for preparing and submitting auditing reports. Its members include the secretary and finance experts, including four municipal executive or fiscal officers.

Government Auditing Standards

"Government auditing standards" refers to a document published by the federal Government Accountability Office specifying standards for auditing government organizations, programs, activities, and

functions. The document also includes standards for auditing contractors, nonprofit organizations, and other private entities that receive government funds.

Related Bills

sSB 374, which the Planning and Development Committee favorably reported, sets conditions under which the state auditors may audit municipal books and accounts. sSB 655, which the Finance, Revenue and Bonding Committee reported favorably, sets conditions under which municipalities can set a tax rate when the municipality fails to adopt the next fiscal year's budget.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/05/2008)